

  
Nathaniel A. Humphries  
Registration No. 22,772

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application:

Yoichiro ARIMA et al

Group Art Unit: (Not yet assigned)

Serial No.: 09/403,603

Examiner: (Not yet assigned)

Int. Appl. No.: PCT/JP98/01844

Attorney Dckt. No.: P64708US0

Filed: October 22, 1999

For: ELECTRODE AND CELL

**DECLARATION UNDER 37 C.F.R. §1.47 PROVIDING PROOF OF FACTS IN  
SUPPORT OF INVENTOR'S REFUSAL TO SIGN**

**DECLARATION OF MR. TOSHIAKI NAKANO**

I, Toshiaki NAKANO, declare that:

1. I, Toshiaki NAKANO, sent the papers to Mr. Tsukamoto.
2. My position is General Manager of INTELLECTUAL PROPERTY CENTER in the RESEARCH & DEVELOPMENT DEPARTMENT of Japan Storage Battery Company, Ltd.
3. I sent copies of the application papers and a declaration to the inventor, Mr. Tsukamoto on August 21, 2001.
4. I made the following efforts to present a copy of the application papers to Mr. Tsukamoto at his last known address:
  - a. I sent copies of the papers to Mr. Tsukamoto and English translations of any papers

that are in Japanese.

b. I sent a letter requesting Mr. Tsukamoto to sign the DECLARATION. The Declaration was attached to the parts of the specification (ABSTRACT and Claims and the drawings). The papers were sent by DHL. A copy of the receipt from DHL, showing that the papers were delivered to Mr. Tsukamoto, is attached hereto as an Exhibit.

5. Mr. Tsukamoto would not make any express oral refusal to sign the declaration. He did not return the papers or the declaration.

6. The following additional facts led me to conclude that Mr. Tsukamoto's conduct constituted a refusal to sign:

- (a) Mr. Tsukamoto retired from Japan Storage Battery Co., Ltd. in November 1998.
- (b) The reason he retired was that he was taking over his father's company. The company had no relationship to the Japan Storage Battery Co., Ltd.
- (c) However, just after retiring Mr. Tsukamoto started a competitive business and he enticed three engineers away from Japanese Storage Battery Co., Ltd.  
  
Therefore, Mr. Tsukamoto and Japan Storage Battery Co., Ltd. are now in a difficult business relationship.
- (d) The above-mentioned three engineers, when they left Japan Storage Battery Co., Ltd., took confidential documents and electronic information of additional technology matters. Now, Japan Storage Battery Co., Ltd. and these three engineers are in legal actions.

I further declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful statements and the like so made are punishable by fine or imprisonment or both, under section 1001 of Title 18 of the United States Code; and that such willful false statements may jeopardize the validity of the captioned application or any patent issuing thereon.

Date: July 5, 2002

By: Toshiaki Nakano  
Toshiaki Nakano